IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 20206 of 2004

Between:

Mandal Rangaiah S/o Shankaraiah
R/o Allipuram Villalge, Khammam District

..... PETITIONER

AND

1 The Collector and District Magistrate, Khammam
2 The Government of Andhra Pradesh rep by Chief Secrtary, Hyderabad
3 The Superintendent of Central Prison, Warangal

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Habeas Corpus Under Art 226 of the Constitution of India directing the Respondents to produce the detenu Sri Mandal Upender S/o Rangaiah, now detained in Central Prison, Warangal, before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner : MR.C.PRAVEEN KUMAR

Counsel for the Respondents : THE ADVOCATE GENERAL

The Court made the following :

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ORDER: (per Hon'ble Sri Justice Bilal Nazki)

Heard the learned Senior Counsel for the petitioner and also learned Government Pleader appearing for Advocate General.

The detenu, who has been detained in terms of the provisions of A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as "the Act"), allegedly is a boot-legger and it is contended by the learned Senior Counsel that in the absence of any mention in the grounds that there was any material to suggest that the detenu was engaged in any activity, which could be termed as grave danger to life or public health, the detention could not have been ordered. He refers to the grounds of detention. All these grounds only state that illicitly distilled liquor was seized from the petitioner and instances from 6-12-2000 to 16-8-2004 have been referred, which all became subject matter of criminal prosecutions. In none of these cases, there is accusation against the detenu that he was engaged in manufacturing the liquor, which was dangerous to public health. Learned counsel submits that in terms of Section 2 (a) of the Act acting in any manner prejudicial to the maintenance of public order has been defined in the following terms:

> "*acting in any manner prejudicial to the maintenance of public order*" means when a boot-legger, a dacoit, a goonda, an immoral traffic offender or a land-grabber is engaged or is making preparations for engaging, in any of his activities as such, which affect adversely, or are likely to affect adversely, the maintenance of public order."

Boot-legger has been defined under Section 2 (b) of the Act and in terms of Section 3 of the Act it is not sufficient to detain a person if he is a boot-legger. The boot-legger should be acting in any manner prejudicial to the maintenance of public order and by definition in Section 2 (b) of the Act that would mean that his activity should be danger to life or public health. Since there was no material before the competent authority with regard to this aspect of the matter, therefore, the detention is bad.

We agree with the contention of the learned counsel for the petitioner that

since there was no material before the detaining authority to frame an opinion that the activity of the detenu was danger to life or public health, therefore, the detention cannot be sustained.

The writ petition is allowed and the detention order is hereby quashed. The respondents are directed to release the detenu forthwith, if he is not required in any other case.

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BILAL NAZKI,J

Dated:29-11-2004

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C.V.RAMULU,J

GJ

To

1 The Collector and District Magistrate, Khammam
2 The Chief Secretary, Government of Andhra Pradesh, Hyderabad
3 The Superintendent of Central Prison, Warangal.

4 Two C.Cs. to the Advocate General, High Court of A.P., Hyderabad.(OUT)

5 Two C.D. copies.